



**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

Caption in compliance with D.N.J. 9004-2(c)

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In re:

BIRDSALL SERVICES GROUP, INC., *et al.*,

Debtors.

Case No. 13-16743

(Jointly Administered Case No. 13-16746)

Judge: Hon. Michael B. Kaplan, U.S.B.J.

Chapter 11

EDWIN H. STIER, CHAPTER 11 TRUSTEE FOR
BIRDSALL SERVICES GROUP, INC. *et al.* and
PARTNER ASSESSMENT CORPORATION,

Plaintiffs,

V.

T&M ASSOCIATES and MARK
WORTHINGTON,

Defendants.

Adversary Proceeding No.: 13-01772

ORDER TO SHOW CAUSE WITH TEMPORARY RESTRAINTS

The relief set forth on the following pages is hereby:

ORDERED

DATED: 7/30/2013


Honorable Michael B. Kaplan
United States Bankruptcy Judge

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THIS MATTER being brought before the Court by Plaintiff, Edwin H. Stier, as Chapter 11 Trustee for the Estate of Birdsall Services Group, Inc., *et al.* (the “Trustee”), by and through his counsel, Wasserman, Jurista & Stolz, P.C., and by Plaintiff, Partner Assessment Corporation (“Partner”), by and through its counsel, Giordano, Halleran & Ciesla, P.C., seeking relief by way of Order to Show Cause with temporary restraints pursuant to Federal Rule of Bankruptcy Procedure 7065, based on the facts set forth in the Verified Complaint and the brief filed in support of the application; and prior notice having been provided to counsel for Defendants; and the Court having determined that it has jurisdiction over this action pursuant to 28 U.S.C. § 1334; and it appearing that immediate irreparable damage will result before the return date of this Order to Show Cause; and for good cause shown:

IT IS on this 30 **day of July, 2013:**

ORDERED that Defendants, T&M Associates (“T&M”) and Mark Worthington (“Worthington”), shall appear and show cause before the Honorable Michael B. Kaplan, U.S.B.J. at the United States Bankruptcy Court, District of New Jersey, Trenton Vicinage, Clarkson S. Fisher U.S. Courthouse, 402 East State Street, Trenton, New Jersey 08608, Courtroom 8, on the 31st day of July, 2013, at 9:30 am o’clock, or as soon thereafter as counsel may be heard, why an Order should not be entered:

- a. Enjoining Worthington preliminarily and during the pendency of this action from soliciting, canvassing or accepting any business or transaction for T&M, or any person, firm, corporation or business similar to or in competition with any business of Debtors;
- b. Enjoining T&M preliminarily and during the pendency of this action from

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permitting Worthington to work for T&M, remain employed by T&M, or otherwise solicit, canvass or accept any business or transaction from T&M;

c. Enjoining Worthington preliminarily and during the pendency of this action from contacting or communicating in any way with any of Plaintiffs' customers with the purpose or intent of requesting that such customer curtail or cancel its business with Plaintiffs;

d. Enjoining Worthington and T&M preliminarily and during the pendency of this action and from using any proprietary information unlawfully taken from the Debtors by Worthington;

e. Granting Plaintiffs rights to expedited discovery and access T&M's files and computers to confirm compliance with any injunctive relief granted by this Court; and

f. Granting such other relief as the Court deems equitable and just; and it is

FURTHER ORDERED that, pending the hearing on the return date of this Order to Show Cause, Defendant Worthington is temporarily enjoined and restrained from:

a. Soliciting, canvassing or accepting any business or transaction for T&M, or any person, firm, corporation or business similar to or in competition with any business of Debtors;

b. Contacting or communicating in any way with any of Plaintiffs' customers with the purpose or intent of requesting that such customer curtail or cancel its business with Plaintiffs; and

c. Using any proprietary information unlawfully taken from the Debtors' by Worthington including, without limitation, is the information transferred by Worthington to and contained on the "Thumb Drive" described by Worthington in his June 11, 2013 deposition and

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in Plaintiff's Verified Complaint; and it is

FURTHER ORDERED that, pending the hearing on the return date of this Order to Show Cause, Defendant T&M is temporarily enjoined and restrained from:

a. Permitting Worthington to work for T&M, on any matter, directly or indirectly, in competition with Plaintiff's business; and

b. Using any proprietary information unlawfully taken from the Debtors by Worthington including, without limitation, is the information transferred by Worthington to and contained on the "Thumb Drive" described by Worthington in his June 11, 2013 deposition and in Plaintiff's Verified Complaint; and it is

FURTHER ORDERED that:

a. Plaintiffs shall serve a copy of this Order to Show Cause, their Verified Complaint and Brief upon counsel for Defendants by facsimile or electronic mail, and by regular ^{same day} mail, within _____ day(s) of the date hereof.

b. Defendants shall file and serve a written response to this Order to Show Cause by July __, 2013. Defendants must also send a courtesy copy of any opposition papers directly to Judge Kaplan at the address listed above. Defendants shall also simultaneously serve, by facsimile or electronic mail, and by regular mail, their opposition papers upon Plaintiffs' attorneys whose name and address appears above.

c. Plaintiffs must file and serve any reply to the Defendants' opposition by July __, 2013.

d. Pursuant to Fed.R.Civ.P. 65(b)(4), Defendants may move to dissolve or modify

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the temporary restraints contained herein on two (2) days notice to the Plaintiffs' attorney.

e. Pursuant to Fed. R. Bankr. P. 7065(c), Plaintiff shall not be required to post a bond.

f. If Defendants do not file and serve opposition to this Order to Show Cause, the application will be decided on the papers on the return date and relief may be granted by default, provided that Plaintiffs file a proof of service and a proposed form of order at least ____ days prior to the return date.

g. The Court will entertain argument, but not testimony, on the return date of the Order to Show Cause, unless the court and parties are advised to the contrary no later than ____ days before the return date.

Docs #1344903-v1